

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF OKLAHOMA

KARL FONTENOT,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-16-69-JHP-KEW
)	
JOE ALLBAUGH, Director,)	
)	
Respondent.)	

MOTION FOR EXTENSION OF TIME TO FILE
RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS
AND MOTION FOR EVIDENTIARY HEARING

COMES NOW the Respondent, through Counsel, and respectfully asks for an extension of time to file a Response to Petitioner's *Amended Petition for Writ of Habeas Corpus* and *Motion for Evidentiary Hearing*. Respondent requests an additional nine (9) days, or until December 8, 2017, in which to file the Responses. In support of this Motion, Respondent shows the Court the following:

1. Pursuant to this Court's original scheduling order, Responses to Petitioner's *Amended Petition for Writ of Habeas Corpus* and *Motion for Evidentiary Hearing* were due to be filed on October 30, 2017 (Doc. 87-88).

2. One previous unopposed motion for extension of time was requested of this Court by Respondent to file a response to Petitioner's *Amended Petition for Writ of Habeas Corpus* and *Motion for Evidentiary Hearing* (Doc. 90). This Court granted that request and Respondent's briefing deadline was reset for November 29, 2017 (Doc. 91).

3. Counsel for Respondent spoke to Counsel for Petitioner on November 27, 2017, concerning the instant Motion. Counsel for Petitioner has no objection to this Court granting Respondent an extension of time of nine (9) days (or until December 8, 2017) to respond to the *Amended Petition for Writ of Habeas Corpus* and *Motion for Evidentiary Hearing*.

4. Since this Court granted the previous motion for extension of time, Counsel for Respondent's neurological condition has worsened considerably and now requires brain surgery; that surgery is scheduled for December 13, 2017. The condition, drug treatment, physician appointments, and medical tests, have combined to slow counsel's ability to devote the necessary time and attention to the responses to this case.

5. In addition to the above medical issues, which caused delays in all cases, Counsel for Respondent has continued to keep heavy case load. Counsel currently has a pending motion for an extraordinary third extension of time before the Oklahoma Court of Criminal Appeals in which to complete the response to a state direct appeal, *Payton v. State*, F-2016-194, and is working hard to finish as much case work as possible prior to his impending surgery date.

6. Petitioner's filings are large and fact-intensive. Due to the above factors, undersigned counsel needs both an adequate opportunity to prepare the responses to Petitioner's *Amended Petition for Writ of Habeas Corpus* and *Motion for Evidentiary Hearing*, and also allow for the two-stage mandatory internal review process to take place prior to filing any response in this Court.

7. This request is made in good faith and not for the purpose of delay.

Wherefore, Respondent respectfully requests nine (9) days from and after November 29, 2017, to file the Responses as ordered by this Court.

Respectfully submitted,

MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA

s/ MATTHEW D. HAIRE
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ATTORNEYS FOR RESPONDENT

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of November, 2017, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Tiffany R. Murphy, Arkansas Bar # 2015057
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